

## **REMARKS/ARGUMENTS**

### **Status of the claims**

Claims 1-2, 12, 13, 18, 19, 30-34, and 36 stand rejected, and claims 14-17, 21-29, 35, and 37 are withdrawn.

Applicants have amended claims 14-17, 21-29, 35, and 37 without prejudice or disclaimer for being directed to non-elected subject matter. Applicants expressly reserve the right to file one or more divisional applications or take such other measures deemed necessary to protect the subject matter encompassed by the non-elected claims.

Applicants have also cancelled claims 19 and 36 without prejudice or disclaimer in the interest of expediting examination of the instant application.

Applicants have amended claims 1, 2, 18, 30, and 34.

Applicants have amended claims 1 and 2 to insert --plant-- before each occurrence of “geminiviral” for reasons that are discussed below under the discussion concerning the rejection of the claims under 35 U.S.C. § 112, first paragraph, for lack of enablement.

Applicants have further amended claim 2 and have amended claims 30 and 34 for reasons that are discussed below under the discussion concerning the rejection of the claims under 35 U.S.C. § 112, second paragraph. These claims have been amended to replace “product” with --protein-- at the following places in these claims: claim 2, part (a), penultimate line; claim 30, line 1; and claim 34, line 2.

Applicants have amended claim 18 without prejudice or disclaimer to delete “or RNA” in response to a claim objection that is discussed below.

Applicants expressly reserve the right to file one or more continuing applications or take such other measures deemed necessary to protect the full scope of their invention as originally claimed.

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The amendments to the claims are fully supported by Applicants' original specification and claims. Therefore, no new matter has been added by way of the amendment of claims.

Following the claims amendments made hereinabove, claims 1, 2, 12, 13, 18, and 30-34 are pending and under examination.

Reexamination and reconsideration of the application as amended are respectfully requested in view of the following remarks.

#### The Objections to the Claims Should Be Withdrawn

Claims 18 and 19 have been objected to for encompassing non-elected subject matter, namely replicating RNA molecules.

Claim 19 has been cancelled making the objection to this claim moot.

Claim 18 has been amended such that this claim no longer encompasses non-elected subject matter. Accordingly, the objection to claim 18 should be withdrawn.

#### The Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph, Should Be Withdrawn

Claims 2, 20, and 34 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. Claims 2, 20, and 34 has been amended. This rejection is respectfully traversed.

The Office Action indicates that claims 2, 20, and 34 are indefinite for the recitation of "said product of interest", which lacks antecedent basis in amended claim 2 or in amended claim 1. The Examiner indicates that this rejection can be obviated by replacing "product" with --protein-- at the following places in these claims: claim 2, part (a), penultimate line; claim 30, line 1; and claim 34, line 2.

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Applicants have amended claims 2, 30, and 34 as recommended by the Examiner. Accordingly, the rejections of claims 2, 30, and 34 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

The Rejections of the Claims Under 35 U.S.C. § 112, First Paragraph, Should Be Withdrawn

Claims 1, 2, 12, 13, 18, 30-34, and 36 have been rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Claim 36 has been cancelled. Claims 1, 2, 18, 30, and 34 have been amended. This rejection is respectfully traversed.

The Office Action indicates that the specification is enabling for claims limited to methods for plant transformation with plant geminiviral origins of replication and replicase genes. The Office Action asserts, however, that the specification does not provide reasonable for plant transformation with animal geminiviral sequences.

The Examiner indicates that amendment of claims 1-2 to insert "--plant--" before each occurrence of "geminiviral" and the cancellation of claim 19 would obviate this rejection.

In the interest of expediting examination of the instant application and not to limit the scope of their claimed invention, Applicants have amended claims 1 and 2 as recommended by the Examiner. Accordingly, the rejections of the claims under 35 U.S.C. § 112, first paragraph, for lack of enablement should be withdrawn.

The Rejection of the Claims Under 35 U.S.C. § 102 Should Be Withdrawn

Claims 1, 2, 12, 13, 18, 19, 30-34, and 36 have been rejected under 35 U.S.C. § 102. Claims 19 and 36 have been cancelled. Claims 1, 2, 18, 30, and 34 have been amended. This rejection is respectfully traversed.

Claim 36 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Lyznik *et al.* (U.S. Patent No. 7,164,056). Claim 36 has been cancelled. Accordingly, this rejection is now moot.

Claims 1, 2, 12, 13, 18, 19, 30-34, and 36 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Yadav *et al.* (U.S. Patent No. 6,632,980). The Office Action indicates that Yadav *et al.* teach a method of crossing a first plant comprising integrated into its chromosomal genome a protein-encoding gene and an “inactive” plant geminiviral replicon comprising an origin of replication and inherently comprising a replicase gene, with a second plant comprising a recombinase-encoding gene, wherein the seed and progeny of said cross comprise a replicating and autonomous DNA molecule as the result of recombinase-mediated release of the chromosomal genome of the first plant. The Office Action further indicates that Yadav *et al.* teaches that in this method, the recombinase-encoding gene may be under the control of a chemically regulated or seed-specific promoter for the production of the replicating DNA molecule specifically in seeds, wherein the protein produced by the protein-encoding gene may be over expressed and extracted from the seed, wherein the protein may be a foreign protein including seed storage proteins or pest resistance proteins, wherein monocots such as corn and dicots such as tobacco may be employed, and wherein male sterility may be employed in the cross.

In contrast to the view of the Office Action, claims 1 and 2 are novel over Yadav *et al.*, since Yadav *et al.* does not disclose a process of producing a protein of interest in an F1 seed, comprising isolating from said F1 seed or a seedling thereof (i) said protein of interest or (ii) if said protein is an enzyme, a chemical compound the synthesis of which said enzyme is involved in. Isolation from seeds or seedlings is neither disclosed nor considered in Yadav *et al.*

In view of the above remarks, it is submitted that the rejection of the claims under 35 U.S.C. § 102 should be withdrawn.

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### **CONCLUSIONS**

In view of the above amendments and remarks, Applicants submit that the objection to claim 18 and the rejections of the claims under 35 U.S.C. §§ 102 and 112, first and second paragraphs, are overcome. Applicants respectfully submit that this application is now in condition for allowance. Early notice to this effect is solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON SEPTEMBER 4, 2009.